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Court : Karnataka

Decided On : Nov-03-1987

Reported in : ILR1988KAR545; 1988(1)KarLJ66

Judge : Chandrakantaraj Urs, J.

Acts : Karnataka Land Reforms Act, 1961 - Sections 121A

Appeal No. : C.R.P. No. 4713 of 1987

Appellant : Akkavva

Respondent : Basanagouda

Advocate for Def. : R.U. Goulay, Adv. for R-1

Advocate for Pet/Ap. : U.R. Malimath, Adv.

Disposition : Revision petition rejected

Judgement :
ORDER

Chandrakantaraj Urs, J.

1. This revision is preferred under the provisions of the Karnataka Land Reforms Act (hereinafter referred to as the Act) against the decision of the appellate authority constituted for Belgaum District. The -appeal stood transmitted to the

said authority on account of the amendment made to the Act. The appellant before the authority was the Writ Petitioner in this Court earlier before the amendment. In the Writ Petition, he had challenged the finding recorded by the Land Tribunal, Bailhongal in Belgaum rejecting his application for occupancy rights in respect of certain agricultural lands of which he claimed to be the tenant. The main ground urged was that the Tribunal erred in rejecting the application for registration of occupancy rights under Section 48A of the Act despite the admission of Akkavva, the alleged landlord, that she had allowed the land to be cultivated by him on payment of Rs.600/- which she had borrowed for the sake of providing medical assistance to her ailing husband.

2. In addition to the grounds urged in the Writ Petition it is apparent from the order under revision that the Appellate Authority has permitted the parties to lead oral and documentary evidence before it. Appreciating that evidence and essentially relying upon the admission made by the petitioner before the Land Tribunal while giving her statement which she admitted to be correct before the Appellate Authority when she examined herself as the first witness for respondent, the Appellate Authority has come to the conclusion that the Tribunal erred in ignoring the admission rejecting the occupancy rights prayed for by the appellant before the Appellate Authority. In that view of the matter, they have declared that he was the tenant of the land and he is entitled to be registered as an occupant of the same.

3. In this Court it is urged by Mr. U.R. Malimath that the appellate authority erred in ignoring the evidence as well as the records, particularly the record of right extracts produced before it. It clearly in the column provided for showing the owner's name, showed the name of one Aralannavar who was none other than the brother-in-law of Akkavva the 1st respondent before the Appellate Authority. It is also in evidence that there was 3 partition between Aralannavar and his brother Devendrappa at some time previously. But that partition has not been established by any cogent evidence either before the Tribunal or before the Appellate Authority. If there was a partition then they were duty bound to have the same mutated in the record of rights.

4. It is seen from the document produced in this Court for perusal by the learned Counsel, that Akkavva did make a report that her name be entered in place of her husband as he had left no male heirs. That does not evidence partition either. When there is clear admission by her that the tenant Basanagouda Mallanagouda Patil was cultivating the land on account of the amounts advanced by him by way of loan clearly establishes that even in 1970 the land was cultivated not by Akkavva but by Basanagouda Mallanagouda Patil. In the light of that evidence the Appellate Authority could not come to a different conclusion from that it has done.

5. It was next argued by Mr, Malimath that this Court may re-appreciate the evidence and come to a different conclusion while exercising jurisdiction under the Land Reforms Act. He has drawn my attention to the decision of this Court in the case of VILAS ALIAS GUNDU ANANTHACHARYA v. STATE OF KARNATAKA, : ILR 1987 KAR1427 . It is clear from the said decision that normally revisional Court would be bound by the finding of facts recorded by the appellate Court or the trial Court. If the finding recorded by the trial Court or the Appellate Authority is not supported by the evidence on record and the evidence relied upon as such is grossly misread by it and if there is no conclusion arrived by it, this Court in order to find out the legality of the order has the power to re-appreciate the evidence. The facts of this case do not attract the ruling given in that case. The Supreme Court in the case of SRI RAJA LAKSHMI DYEING WORKS AND OTHERS v. RANGASWAMY CHETTIAR, : AIR 1980 SC1253 has clearly stated that whatever may be the language which confers revisional jurisdiction on the High Court, that shall not make the High Court a Court of first appeal. It may have greater power by virtue of the language employed than what is clearly attributed to High Courts under Section 115 of the C.P.C. Yet the power is restricted to seeking out errors of jurisdiction and not act as a Court of first appeal.

6. In that view of the matter, this revision petition is devoid of merit and therefore it is rejected.

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